

State Laws Related to Airport Land Use Planning

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AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9—Aviation
Part 1—State Aeronautics Act
Chapter 4—Airports and Air Navigation Facilities

Article 3.5
AIRPORT LAND USE COMMISSION

(As of December 2000)

21670. Creation; Membership; Selection

- (a) The Legislature hereby finds and declares that:
- (1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.
 - (2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.
- (b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors for the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:
- (1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (2) and (3) shall each be increased by one.
 - (2) Two representing the county, appointed by the board of supervisors.
 - (3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.
 - (4) One representing the general public, appointed by the other six members of the commission.
- (c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

- (d) Each member shall promptly appoint a single proxy to represent the member in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.
- (e) A person having an “expertise in aviation” means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.
- (f) It is the intent of the Legislature to clarify that, for the purposes of this article, special districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

21670.1. Action by Designated Body Instead of Commission

- (a) Notwithstanding any provisions of this article, if the board of supervisors and the city selection committee of mayors in any county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.
- (b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that the body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.
- (c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.
- (2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1) of this subdivision, that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:
 - (A) Adopt processes for the preparation, adoption, and amendment of the comprehensive airport land use plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.
 - (B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the comprehensive airport land use plans.
 - (C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the comprehensive airport land use plans.

- (D) Adopt processes for the amendment of general and specific plans to be consistent with the comprehensive airport land use plans.
- (E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each comprehensive airport land use plan.
- (3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:
 - (A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.
 - (B) Rely on the height, use, noise, safety, and density criteria that are compatible with air port operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.
 - (C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.
- (4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and a plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.
- (d) A commission need not be formed in a county that has contracted for the preparation of comprehensive airport land use plans with the Division of Aeronautics under the California Aid to Airport Program (Title 21 (commencing with Section 4050) of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the plans:
 - (1) Agree to adopt and implement the comprehensive airport plans that have been developed under contract.
 - (2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.
 - (3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.
- (e) (1) A commission need not be formed in a county if all of the following conditions are met:
 - (A) The county has only one public use airport that is owned by a city.
 - (B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.
 - (ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit elements specified in

paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

21670.2. Applicability to Counties Having over 4 Million Population

- (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on such an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.
- (b) By January 1, 1992, the county regional planning commission shall adopt the comprehensive land use plans required pursuant to Section 21675.
- (c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the comprehensive land use plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the plans are adopted.

21670.4. Intercounty Airports

- (a) As used in this section, “intercounty airport” means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or side-line safety zones, as defined by an existing airport land use commission in its comprehensive land use plan in accordance with Section 21675.
- (b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.
- (c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county’s two delegations, for any intercounty airport, may either:
 - (1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:
 - (A) One representing the cities in each of the counties, appointed by that county’s city selection committee.
 - (B) One representing each of the counties, appointed by the board of supervisors of each county.
 - (C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.
 - (D) One representing the general public, appointed by the other six members of the commission.
 - (2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport’s land use commission.

**21671. Airports Owned by a City, District, or County;
Appointment of Certain Members by Cities and Counties**

In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

**21671.5. Term of Office; Removal of Members; Vacancies;
Compensation; Staff Assistance; Meetings**

- (a) Except for the terms of office of the members of the first commission, the term of office for each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members if four years. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing him or her. The expiration date of the term of office of each member shall be the first Monday in May in the year in which his or her term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.
- (b) Compensation, if any, shall be determined by the board of supervisors.
- (c) Staff assistance, including the mailing of notices and the keeping of minutes, and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary expenses of the commission shall be a county charge.
- (d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.
- (e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.
- (f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission which has not adopted the comprehensive land use plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.
- (g) In any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the land use plans are complete by that date, may continue charging fees after June 30, 1992. If the land use plans are not complete by June 30, 1992,

the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

21672. Rules and Regulations

Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

21673. Initiation of Proceedings for Creation by Owner of Airport

In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

21674. Powers and Duties

The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

- (a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.
- (b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.
- (c) To prepare and adopt an airport land use plan pursuant to Section 21675.
- (d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.
- (e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.
- (f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

21674.5. Training of Airport Land Use Commission's Staff

- (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.
- (b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

- (1) The establishment of a process for the development and adoption of comprehensive land use plans.
 - (2) The development of criteria for determining airport land use planning boundaries.
 - (3) The identification of essential elements which should be included in the comprehensive plans.
 - (4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.
 - (5) Any other organizational, operational, procedural, or technical responsibilities and functions which the department determines to be appropriate to provide the commission staff and for which it determines there is a need for staff training and development.
- (c) The department may provide training and development programs for airport land commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:
- (1) By offering formal courses or training programs.
 - (2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.
 - (3) By producing and making available written information.
 - (4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

21674.7. Airport Land Use Planning Handbook

An airport land use commission that formulates, adopts or amends a comprehensive airport land use plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

21675. Land Use Plan

- (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.
- (b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purpose specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

- (c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.
- (d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.
- (e) If a comprehensive land use plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

21675.1. Adoption of Land Use Plan

- (a) By June 30, 1991, each commission shall adopt the comprehensive land use plan required pursuant to Section 21675, except that any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, shall adopt that plan on or before June 30, 1992.
- (b) Until a commission adopts a comprehensive land use plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give the public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.
- (c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:
 - (1) The commission is making substantial progress toward the completion of the plan.
 - (2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.
 - (3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.
- (d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.
- (e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.
- (f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the city's or county's decision to proceed with the action, regulation, or permit.
- (g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

- (1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.
- (2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

21675.2. Approval or Disapproval of Actions, Regulations, or Permits

- (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.
- (b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the name and address of the commission, and a statement that the action, regulation, or permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.
- (c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.
- (d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

21676. Review of Local General Plans

- (a) Each local agency whose general plan includes areas covered by an airport land use commission plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the commission's plan. If the plan or plans are inconsistent with the commission's plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its plans. The local agency may overrule the commission after such a hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (b) Prior to the amendment of a general plan or specific plan, or the addition or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the com-

mission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

- (c) Each public agency owning any airport within the boundaries of an airport land use commission plan shall, prior to modification of its airport master plan, refer such proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the commission's plan.

21676.5. Review of Local Plans

- (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the commission plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.
- (b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that the individual projects shall be reviewed by the commission.

21677. Marin County Override Provisions

Notwithstanding Section 21676, any public agency in the County of Marin may overrule the Marin County Airport Land Use Commission by a majority vote of its governing body.

21678. Airport Owner's Immunity

With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676 or 21676.5 overrides a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

21679. Court Review

- (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, which directly affects the use of land within one mile of the boundary of a public airport within the county.
- (b) The court may issue an injunction which postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency which took the action does one of the following:
 - (1) In the case of an action which is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.
 - (2) In the case of an action which is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.
 - (3) Rescinds the action.
 - (4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2) of this subdivision, whichever is applicable.
- (c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency which took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use plan as provided in Section 21675.
- (d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.
- (e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.
- (f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

21679.5. Deferral of Court Review

- (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan.
- (b) If a commission has been prevented from adopting the comprehensive land use plan by June 30, 1991, or if the adopted plan could not become effective, because of a lawsuit involving the adoption of the plan, the June 30, 1991 date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

- (c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body does not adopt an airport land use plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.
- (d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9, Part 1
Chapter 3—Regulation of Aeronautics
(excerpts)

21402. Ownership; Prohibited Use of Airspace

The ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

**21403. Lawful Flight; Unauthorized and Forced Landings; Damages;
Use of Highways; Burden of Proof; Within Airport Approach Zone**

- (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.
- (b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:
 - (1) A forced landing.
 - (2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.
 - (3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

- (c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

AERONAUTICS LAW**PUBLIC UTILITIES CODE****Division 9, Part 1****Chapter 4—Airports and Air Navigation Facilities****Article 2.7****REGULATION OF OBSTRUCTIONS****(excerpts)****21655. Proposed Site for Construction of State Building Within Two Miles of Airport; Investigation and Report; Expenditure of State Funds**

Notwithstanding any other provision of law, if the proposed site of any state building or other enclosure is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the state agency or office which proposes to construct the building or other enclosure shall, before acquiring title to property for the new state building or other enclosure site or for an addition to a present site, notify the Department of Transportation, in writing, of the proposed acquisition. The department shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the state agency or office which proposes to construct the building or other enclosure a written report of the investigation and its recommendations concerning acquisition of the site.

If the report of the department does not favor acquisition of the site, no state funds shall be expended for the acquisition of the new state building or other enclosure site, or the expansion of the present site, or for the construction of the state building or other enclosure, provided that the provisions of this section shall not affect title to real property once it is acquired.

21658. Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area

No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

21659. Obstructions Near Airports Prohibited

- (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations,

Part 77, Subpart C, unless a permit allowing the construction, alteration, or growth is issued by the department.

- (b) The permit is not required if the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.
- (c) Section 21658 is applicable to subdivision (b).

AERONAUTICS LAW**PUBLIC UTILITIES CODE
Division 9, Part 1, Chapter 4****Article 3
REGULATION OF AIRPORTS
(excerpts)****21661.5. Approval of Construction Plans; Submission
of Plan to Airport Land Use Commission**

No political subdivision, any of its officers or employees, or any person may submit any application for the construction of a new airport to any local, regional, state, or federal agency unless the plan for such construction is first approved by the board of supervisors of the county, or the city council of the city, in which the airport is to be located and unless the plan is submitted to the appropriate commission exercising powers pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9, and acted upon by such commission in accordance with the provisions of such article.

21664.5. Approval of Sites; Amended Airport Permits; Airport Expansion Defined

An amended airport permit shall be required for every expansion of an existing airport. An applicant for an amended airport permit shall comply with each requirement of this article pertaining to permits for new airports. The department may by regulation provide for exemptions from the operation of the section pursuant to Section 21661, except that no exemption shall be made limiting the applicability of subdivision (e) of Section 21666, pertaining to environmental considerations, including the requirement for public hearings in connection therewith.

As used in this section, "airport expansion" includes any of the following:

- (a) The acquisition of clear zones or of any interest in land for the purpose of any other expansion as set forth in this section.
- (b) The construction of a new runway.
- (c) The extension or realignment of an existing runway.
- (d) Any other expansion of the airport's physical facilities for the purpose of accomplishing or which are related to the purpose of subdivision (a), (b), or (c).

This section shall not apply to any expansion of an existing airport if the expansion commenced on or prior to the effective date of this section and the expansion met the approval on or prior to such effective date of each governmental agency which by law required such approval.

PLANNING AND ZONING LAW

GOVERNMENT CODE Title 7—Planning and Land Use Division 1—Planning and Zoning Chapter 3—Local Planning

Article 5 **AUTHORITY FOR AND SCOPE OF GENERAL PLANS** *(excerpts)*

65302.3. General and Applicable Specific Plans; Consistency with Airport Land Use Plans; Amendment; Nonconcurrence Findings

- (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.
- (b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.
- (c) If the legislative body does not concur with any of the provisions of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

PLANNING AND ZONING LAW**GOVERNMENT CODE****Title 7, Division 1****Chapter 4.5—Review and Approval of Development Projects****Article 3****APPLICATION FOR DEVELOPMENT PROJECTS****(excerpts)**

Note: The following government code sections are referenced in Section 21675.2(c) of the ALUC statutes.

**65943. Completeness of Application; Determination; Time;
Specification of Parts not Complete and Manner of Completion**

- (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.
- (b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for the purposes of this chapter.
- (c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency of the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

- (d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.
- (e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to pro-

vide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

65943.5.

- (a) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving a permit application to a board, office, or department within the California Environmental Protection Agency shall be made to the Secretary for Environmental Protection.
- (b) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving an application for the issuance of an environmental permit from an environmental agency shall be made to the Secretary for Environmental Protection under either of the following circumstances:
 - (1) The environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943.
 - (2) The environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943.
- (c) For purposes of subdivision (b), “environmental permit” has the same meaning as defined in Section 72012 of the Public Resources Code, and “environmental agency” has the same meaning as defined in Section 71011 of the Public Resources Code, except that “environmental agency” does not include the agencies described in subdivisions (c) and (h) of Section 71011 of the Public Resources Code.

65944. Acceptance of Application as Complete; Requests for Additional Information; Restrictions; Clarification, Amplification, Correction, etc; Prior to Notice of Necessary Information

- (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
- (b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.
- (c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

65945. Notice of Proposal to Adopt or Amend Certain Plans or Ordinances by City or County, Fee; Subscription to Periodically Updated Notice as Alternative, Fee

- (a) At the time of filing an application for a development permit with a city or county, the city or county

shall inform the applicant that he or she may make a written request to retrieve notice from the city or county of a proposal to adopt or amend any of the following plans or ordinances:

- (1) A general plan.
- (2) A specific plan.
- (3) A zoning ordinance.
- (4) An ordinance affecting building permits or grading permits.

The applicant shall specify, in the written request, the types of proposed action for which notice is requested. Prior to taking any of those actions, the city or county shall give notice to any applicant who has requested notice of the type of action proposed and whose development project is pending before the city or county if the city or county determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in the request for notification.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this subdivision, the fee shall be collected as part of the application fee charged for the development permit.

- (b) As an alternative to the notification procedure prescribed by subdivision (a), a city or county may inform the applicant at the time of filing an application for a development permit that he or she may subscribe to a periodically updated notice or set of notices from the city or county which lists pending proposals to adopt or amend any of the plans or ordinances specified in subdivision (a), together with the status of the proposal and the date of any hearings thereon which have been set.

Only those proposals which are general, as opposed to parcel-specific in nature, and which the city or county determines are reasonably related to requests for development permits, need be listed in the notice. No proposals shall be required to be listed until such time as the first public hearing thereon has been set. The notice shall be updated and mailed at least once every six weeks; except that a notice need not be updated and mailed until a change in its contents is required.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice, including the costs of updating the notice, for the length of time the applicant requests to be sent the notice or notices.

65945.3. Notice of Proposal to Adopt or Amend Rules or Regulations Affecting Issuance of Permits by Local Agency other than City or County; Fee

At the time of filing an application for a development permit with a local agency, other than a city or county, the local agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a rule or regulation affecting the issuance of development permits.

Prior to adopting or amending any such rule or regulation, the local agency shall give notice to any applicant who has requested such notice and whose development project is pending before the agency if the local agency determines that the proposal is reasonably related to the applicant's request for the development permit.

The local agency may charge the applicant for a development permit, to whom notice is provided pursuant to this section, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

65945.5. Notice of Proposal to Adopt or Amend Regulation Affecting Issuance of Permits and Which Implements Statutory Provision by State Agency

At the time of filing an application for a development permit with a state agency, the state agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a regulation affecting the issuance of development permits and which implements a statutory provision.

Prior to adopting or amending any such regulation, the state agency shall give notice to any applicant who has requested such notice and whose development project is pending before the state agency if the state agency determines that the proposal is reasonably related to the applicant's request for the development permit.

65945.7. Actions, Inactions, or Recommendations Regarding Ordinances, Rules or Regulations; Invalidity or Setting Aside Ground of Error Only if Prejudicial

No action, inaction, or recommendation regarding any ordinance, rule, or regulation subject to this Section 65945, 65945.3, or 65945.5 by any legislative body, administrative body, or the officials of any state or local agency shall be held void or invalid or be set aside by any court on the ground of any error, irregularity, informality, neglect, or omission (hereinafter called "error") as to any matter pertaining to notices, records, determinations, publications, or any matters of procedure whatever, unless after an examination of the entire case, including evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error that party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

65946. [Replaced by AB2351 Statutes of 1993]

PLANNING AND ZONING LAW**GOVERNMENT CODE****Title 7, Division 1****Chapter 9.3—Mediation and Resolution of Land Use Disputes
(excerpts)****66030.**

- (a) The Legislature finds and declares all of the following:
- (1) Current law provides that aggrieved agencies, project proponents, and affected residents may bring suit against the land use decisions of state and local governmental agencies. In practical terms, nearly anyone can sue once a project has been approved.
 - (2) Contention often arises over projects involving local general plans and zoning, redevelopment plans, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), development impact fees, annexations and incorporations, and the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).
 - (3) When a public agency approves a development project that is not in accordance with the law, or when the prerogative to bring suit is abused, lawsuits can delay development, add uncertainty and cost to the development process, make housing more expensive, and damage California's competitiveness. This litigation begins in the superior court, and often progresses on appeal to the Court of Appeal and the Supreme Court, adding to the workload of the state's already overburdened judicial system.
- (b) It is, therefore, the intent of the Legislature to help litigants resolve their differences by establishing formal mediation processes for land use disputes. In establishing these mediation processes, it is not the intent of the Legislature to interfere with the ability of litigants to pursue remedies through the courts.

66031.

- (a) Notwithstanding any other provision of law, any action brought in the superior court relating to any of the following subjects may be subject to a mediation proceeding conducted pursuant to this chapter:
- (1) The approval or denial by a public agency of any development project.
 - (2) Any act or decision of a public agency made pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
 - (3) The failure of a public agency to meet the time limits specified in Chapter 4.5 (commencing with Section 65920), commonly known as the Permit Streamlining Act, or in the Subdivision Map Act (Division 2 (commencing with Section 66410)).
 - (4) Fees determined pursuant to Sections 53080 to 53082, inclusive, or Chapter 4.9 (commencing with Section 65995).
 - (5) Fees determined pursuant to Chapter 5 (commencing with Section 66000).
 - (6) The adequacy of a general plan or specific plan adopted pursuant to Chapter 3 (commencing with Section 65100).

- (7) The validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox Local Government Reorganization Act (Division 3 (commencing with Section 56000) of Title 5).
- (8) The adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).
- (9) The validity of any zoning decision made pursuant to Chapter 4 (commencing with Section 65800).
- (10) The validity of any decision made pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.
- (b) Within five days after the deadline for the respondent or defendant to file its reply to an action, the court may invite the parties to consider resolving their dispute by selecting a mutually acceptable person to serve as a mediator, or an organization or agency to provide a mediator.
- (c) In selecting a person to serve as a mediator, or an organization or agency to provide a mediator, the parties shall consider the following:
 - (1) The council of governments having jurisdiction in the county where the dispute arose.
 - (2) Any subregional or countywide council of governments in the county where the dispute arose.
 - (3) The Office of Permit Assistance within the Trade and Commerce Agency, pursuant to its authority in Article 1 (commencing with Section 15399.50) of Chapter 11 of Part 6.7 of Division 3 of Title 2.
 - (4) Any other person with experience or training in mediation including those with experience in land use issues, or any other organization or agency which can provide a person with experience or training in mediation, including those with experience in land use issues.
- (d) If the court invites the parties to consider mediation, the parties shall notify the court within 30 days if they have selected a mutually acceptable person to serve as a mediator. If the parties have not selected a mediator within 30 days, the action shall proceed. The court shall not draw any implication, favorable or otherwise, from the refusal by a party to accept the invitation by the court to consider mediation. Nothing in this section shall preclude the parties from using mediation at any other time while the action is pending.

PLANNING AND ZONING LAW**GOVERNMENT CODE****Title 7—Planning and Land Use****Division 2—Subdivisions****Chapter 3—Procedure****Article 3*****REVIEW OF TENTATIVE MAP BY OTHER AGENCIES******(excerpts)*****66455.9.**

Whenever there is consideration of an area within a development for a public school site, the advisory agency shall give the affected districts and the State Department of Education written notice of the proposed site. The written notice shall include the identification of any existing or proposed runways within the distance specified in Section 17215 of the Education Code. If the site is within the distance of an existing or proposed airport runway as described in Section 17215 of the Education Code, the department shall notify the State Department of Transportation as required by the section and the site shall be investigated by the State Department of Transportation required by Section 17215.

EDUCATION CODE
Title 1—General Education Code Provisions
Division 1—General Education Code Provisions
Part 10.5—School Facilities
Chapter 1—School Sites

Article 1
GENERAL PROVISIONS
(excerpts)

Note: SB 161, Statutes of 1997, replaced Education Code Section 39005 with Section 17215; SB 967, Statutes of 1995, deleted Sections 39006 and 39007.

17215.

- (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites before acquiring title to property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, shall give the State Department of Education written notice of the proposed acquisition and shall submit any information required by the State Department of Education if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.
- (b) Upon receipt of the notice required pursuant to subdivision (a), the State Department of Education shall notify the Department of Transportation in writing of the proposed acquisition. If the Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.
- (c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the State Department of Education a written report of its findings including recommendations concerning acquisition of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed schoolsite. The Department of Transportation shall adopt regulations setting forth the criteria by which a proposed site will be evaluated pursuant to this section.
- (d) The State Department of Education shall, within 10 days of receiving the Department of Transportation's report, forward the report to the governing board of the school district. The governing board may not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board may not acquire title to the property. If the report does favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board shall hold a public hearing on the matter prior to acquiring the site.

- (e) If the Department of Transportation's recommendation does not favor acquisition of a proposed site, state funds or local funds may not be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.
- (f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

EDUCATION CODE
Title 3—Postsecondary Education
Division 7—Community Colleges
Part 49—Community Colleges, Education Facilities
Chapter 1—School Sites

Article 2
SCHOOL SITES
(excerpts)

81033. Investigation: Geologic and Soil Engineering Studies; Airport in Proximity

- (c) To promote the safety of students, comprehensive community planning, and greater educational usefulness of community college sites, the governing board of each community college district, if the proposed site is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new community college site or for an addition to a present site, shall give the board of governors notice in writing of the proposed acquisition and shall submit any information required by the board of governors.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site, the board of governors shall notify the Division of Aeronautics of the Department of Transportation, in writing, of the proposed acquisition. The Division of Aeronautics shall make an investigation and report to the board of governors within 30 working days after receipt of the notice. If the Division of Aeronautics is no longer in operation, the board of governors shall, in lieu of notifying the Division of Aeronautics, notify the Federal Aviation Administration or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency such information or assistance as it may desire to give.

The board of governors shall investigate the proposed site and within 35 working days after receipt of the notice shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the board of governors has been received. If the report does not favor the acquisition of the property for a community college site or an addition to a present community college site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

- (d) If, with respect to a proposed site located within two miles of an operative airport runway, the report of the board of governors submitted to a community college district governing board under subdivision (c) does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Division of Aeronautics of the Department of Transportation, no state agency or officer shall grant, apportion, or allow to such community college district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for a community college site acquisition or college building construction, or for expansion of existing sites and buildings, and no funds of the community college district or of the county in which the district lies shall

be expended for such purposes; provided that provisions of this section shall not be applicable to sites acquired prior to January 1, 1966, nor any additions or extensions to such sites.

If the recommendations of the Division of Aeronautics is unfavorable, such recommendations shall not be overruled without the express approval of the board of governors and the State Allocation Board.

PUBLIC RESOURCES CODE
California Environmental Quality Act Statutes
Chapter 2.6—General

(excerpts)

21096. Airport Planning

- (a) If a lead agency prepares an environmental impact report for a project situated within airport comprehensive land use plan boundaries, or, if a comprehensive land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.
- (b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

LEGISLATIVE HISTORY SUMMARY**PUBLIC UTILITIES CODE****Section 21670 et seq.****Airport Land Use Commission Statutes**

- 1967 Original ALUC statute enacted.
- Establishment of ALUCs required in each county containing a public airport served by a certificated air carrier.
 - The purpose of ALUCs is indicated as being to make recommendations regarding height restrictions on buildings and the use of land surrounding airports.
- 1970 Assembly Bill 1856 (Badham) Chapter 1182, Statutes of 1970—Adds provisions which:
- Require ALUCs to prepare comprehensive land use plans.
 - Require such plans to include a long-range plan and to reflect the airport's forecast growth during the next 20 years.
 - Require ALUC review of airport construction plans (Section 21661.5).
 - Exempt Los Angeles County from the requirement of establishing an ALUC.
- 1971 The function of ALUCs is restated as being to require new construction to conform to Department of Aeronautics standards.
- 1973 ALUCs are permitted to establish compatibility plans for military airports.
- 1982 Assembly Bill 2920 (Rogers) Chapter 1041, Statutes of 1982—Adds major changes which:
- More clearly articulate the purpose of ALUCs.
 - Eliminate reference to “achieve by zoning.”
 - Require consistency between local general and specific plans and airport land use commission plans; the requirements define the process for attaining consistency, they do not establish standards for consistency.
 - Eliminate the requirement for proposed individual development projects to be referred to an ALUC for review once local general/specific plans are consistent with the ALUC's plan.
 - Require that local agencies make findings of fact before overriding an ALUC decision.
 - Change the vote required for an override from 4/5 to 2/3.
- 1984 Assembly Bill 3551 (Mountjoy) Chapter 1117, Statutes of 1984—Amends the law to:
- Require ALUCs in all counties having an airport which serves the general public unless a county and its cities determine an ALUC is not needed.
 - Limit amendments to compatibility plans to once per year.
 - Allow individual projects to continue to be referred to the ALUC by agreement.
 - Extend immunity to airports if an ALUC action is overridden by a local agency not owning the airport.
 - Provide state funding eligibility for preparation of compatibility plans through the Regional Transportation Improvement Program process.
- 1987 Senate Bill 633 (Rogers) Chapter 1018, Statutes of 1987—Makes revisions which:
- Require that a designated body serving as an ALUC include two members having “expertise in aviation.”
 - Allows an interested party to initiate court proceedings to postpone the effective date of a local land use action if a compatibility plan has not been adopted.
 - Delete sunset provisions contained in certain clauses of the law.
 - Allows reimbursement for ALUC costs in accordance with the Commission on State Mandates.

- 1989 Senate Bill 255 (Bergeson) Chapter 54, Statutes of 1989—
- Sets a requirement that comprehensive land use plans be completed by June 1991.
 - Establishes a method for compelling ALUCs to act on matters submitted for review.
 - Allows ALUCs to charge fees for review of projects.
 - Suspends any lawsuits that would stop development until the ALUC adopts its plan or until June 1, 1991.
- 1989 Senate Bill 235 (Alquist) Chapter 788, Statutes of 1989—Appropriates \$3,672,000 for the payment of claims to counties seeking reimbursement of costs incurred during fiscal years 1985–86 through 1989-90 pursuant to state-mandated requirement (Chapter 1117, Statutes of 1984) for creation of ALUCs in most counties. This statute was repealed in 1993.
- 1990 Assembly Bill 4164 (Mountjoy) Chapter 1008, Statutes of 1990—Adds Section 21674.5 requiring the Division of Aeronautics to develop and implement a training program for ALUC staffs.
- 1990 Assembly Bill 4265 (Clute) Chapter 563, Statutes of 1990—With the concurrence of the Division of Aeronautics, allows ALUCs to use an airport layout plan, rather than a long-range airport master plan, as the basis for preparation of a compatibility plan.
- 1990 Senate Bill 1288 (Beverly) Chapter 54, Statutes of 1990—Amends Section 21670.2 to give Los Angeles County additional time to prepare compatibility plans and meet other provisions of the ALUC statutes.
- 1991 Senate Bill 532 (Bergeson) Chapter 140, Statutes of 1991—
- Allows counties having half of their compatibility plans completed or under preparation by June 30, 1991, an additional year to complete the remainder.
 - Allows ALUCs to continue to charge fees under these circumstances.
 - Fees may be charged only until June 30, 1992, if plans are not completed by then.
- 1993 Senate Bill 443 (Committee on Budget and Fiscal Review) Chapter 59, Statutes of 1993—Amends Section 21670(b) to make the formation of ALUCs permissive rather than mandatory as of June 30, 1993. (Note: Section 21670.2 which assigns responsibility for coordinating the airport planning of public agencies in Los Angeles County is not affected by this amendment.)
- 1994 Assembly Bill 2831 (Mountjoy) Chapter 644, Statutes of 1994—Reinstates the language in Section 21670(b) mandating establishment of ALUCs, but also provides for an alternative airport land use planning process. Lists specific actions which a county and affected cities must take in order for such alternative process to receive Division of Aeronautics' approval. Requires that ALUCs be guided by information in the Airport Land Use Planning Handbook when formulating airport land use plans.
- 1994 Senate Bill 1453 (Rogers) Chapter 438, Statutes of 1994—Amends California Environmental Quality Act (CEQA) statutes as applied to preparation of environmental documents affecting projects in the vicinity of airports. Requires lead agencies to use the Airport Land Use Planning Handbook as a technical resource when assessing the airport-related noise and safety impacts of such projects.
- 1997 Assembly Bill 1130 (Oller) Chapter 81, Statutes of 1997—Added Section 21670.4 concerning airports whose planning boundary straddles a county line.
- 2000 Senate Bill 1350 (Rainey) Chapter 506, Statutes of 2000—Added Section 21670(f) clarifying that special districts are among the local agencies to which airport land use planning laws are intended to apply.